

UNITED STATES DISTRICT COURT
Northern DISTRICT OF NEW YORK

Jarrett BANYAN)
Plaintiff(s))
vs.)
SUNY Upstate University Hospital)
Defendant(s))
Doc. John Halverson, M.D.)

U.S. DISTRICT COURT - N.D. OF N.Y.	
FILED	
APR 22 2005	
INMATE	
CIVIL AT	O'CLOCK
RIGHTS Once K. Baerman, Clerk - Syracuse	
COMPLAINT	
PURSUANT TO	
42 U.S.C. § 1983	

Civil Case No.:

6:05 CV 500
DNH/DEP

Plaintiff(s) in the above-captioned action, allege(s) as follows:

* **JURISDICTION**

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

PARTIES

2. Plaintiff: Jarrett BANYAN 03A2859

Address: Mid State Correctional Facility
Po Box 2500 Marcy, New York
13403

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. Defendant: Suny Upstate med. university

Official Position: _____

Address: SUNY Upstate medical university
Hospital, 750 East Adams Street
Syracuse, New York 13210

b. Defendant: John Hawerson, M.D.

Official Position: Surgeon

Address: Supra

c. Defendant: _____

Official Position: _____

Address: _____

Additional Defendants may be added on a separate sheet of paper.

4.

PLACE OF PRESENT CONFINEMENT

a. Is there a prisoner grievance procedure at this facility?

() Yes () No

b. If your answer to 4(a) is YES, did you present the facts relating to your complaint in this grievance program?

() Yes () No

If your answer to 4(b) is YES:

(i) What steps did you take?

(ii) What was the final result of your grievance?

If your answer to 4(b) is NO:

Why did you choose to not present the facts relating to your complaint in the prison's grievance program?

This complaint is not against
N.Y.D.O.C and is therefore non grievable

- c. If there is no grievance procedure in your institution, did you complain to prison authorities about the facts alleged in your complaint?

() Yes () No

If your answer to 4(c) is YES:

- (i) What steps did you take?

- (ii) What was the final result regarding your complaint?

If your answer to 4(c) is NO:

Why did you choose to not complain about the facts relating to your complaint in such prison?

5.

PREVIOUS LAWSUITS

- a. Have you ever filed any other lawsuits in any state and federal court relating to your imprisonment?

() Yes No

- b. If your answer to 5(a) is YES you must describe any and all lawsuits, currently pending or closed, in the space provided on the next page.

For **EACH** such lawsuit, provide the following information:

i. Parties to previous lawsuit:

Plaintiffs:

Defendants:

ii. Court (if federal court, name District; if state court, name County):

iii. Docket number: _____

iv. Name of Judge to whom case was assigned:

v. Disposition (dismissed? on appeal? still pending?)

vi. Approximate date of filing prior lawsuit:

vii. Approximate date of disposition:

6.

FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary.)

While residing at Mid-State Corr. Fac., on June 23, 2003
I was referred to SUNY Upstate medical Center for
complaint of stomach problems... Dr John Halverson, MD -
Received this referral; after examination his conclusion
was "Incisional Hernia!" During interview above doctor
informed claimant of his placing a mesh lining in his
stomach - covering it entirely - so there wouldn't re-occurrence

Operation was done and completed on / About Sept 11, 2003
Claimant remained in hospital until Sept 19, 2003 No follow
up or after care was given. Sometime in 2004 claimant
Started experiencing a lot of pain and discomfort in his
Stomach. After constant complaining and going to doc.,

7.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

Suny Upstate Medical University Hospital is solely
responsible for its medical staff and any, and all medical
procedure's done on its premises. To shoulder responsi-
bility for its doctor and eventual negligent procedure..
As well as over looking complaint filed against
Dr. Halverson.

SECOND CAUSE OF ACTION

Doctor John Halverson be held accountable for
his negligent operation; to which Scarring, pain
and Psychological pain exist from his conduct.
And not fully doing procedure; to which second
and same operation was needed.

THIRD CAUSE OF ACTION

8. Plaintiff(s) demand(s) a trial by

Jury -or- Court
(Circle only one).

9. PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

Claimant request twenty five million dollars
against both defendants for medical malpractice.
twenty-five million dollars for physical scarring
Pain, and Suffering - Past and Present. future medical
expenses, cosmetic surgery (removal of scarring and
mental anguish, stress ... Trial by Jury.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: April 19, 2005

Jessell Bangor
Signature of Plaintiff(s)
(all Plaintiffs must sign)

Cont of Facts.

Infirmary. In August 2004 Claimant was seen by Fac., Medical Staff - Dr. Marvin S Rabinowitz. Said doctor scheduled Claimant for Cat Scan to investigate Stomach Pains. Said doctor also scheduled claimant to see another surgical specialist at SUNY Up State Medical University hospital.

Claimant was subsequently seen by one Doctor. Richard J. Wells, who scheduled claimant for Cat Scan to learn if in fact Hernia had returned. On /about Sept 28, 2004 Cat Scan was done and finding(s) given Hernia had returned.. This being confirmed Dr. Rabinowitz re-scheduled me to see Dr. Wells MD. at Walsh Clinic to sign permission slip for surgical procedure removal of hernia. Prior to surgery Claimant and Dr. Wells, MD spoke; to wit he stated "If former Dr. John Halverson, MD had properly performed procedure- covering entire stomach lining with mesh this up coming operation would not be needed again." Said Doctor also stated he would do this, so no future problem's of this wouldn't re-occur... Fac., Doctor Rabinowitz stated to claimant "He in the past have filed medical complaint(s) against Dr. Halverson, MD. for negligence with medical procedure(s) done on other inmate's." Said complaints was filed with SUNY Upstate Medical University Hospital. On /about Nov 15, 2004 claimant second operation was done on claimant. On /about Jan 26, 2005 claimant received follow up medical review by fac Doctor Rabinowitz. To this day claimant bears intial scarring vertically along his stomach, abdominal pain, psychological stress, and every two months must see surgeon to insure no reoccurrence of injury.

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
COUNTY OF ONEIDA) SS.:

I Jarrett BANYAN, being duly sworn, deposes and says:

That I am the Petitioner, in the within proceeding, and that I am over eighteen (18) years of age; reside at Midstate Correctional Facility, PO Box 2500, Marcy, New York 13403, and in the County of Oneida. That on the 19 day of April 2005,

I served a true copy of the attached:

Affidavit of Service and Verification w/Complaint
under Article 7883 and Your Person Application
upon the concerned party/parties at the following addresses mentioned below, by placing said copies in a post-paid properly addressed wrapper in a official depository under the care and custody of the United States Postal Service within the State of New York.

DATED: 4/19-2005

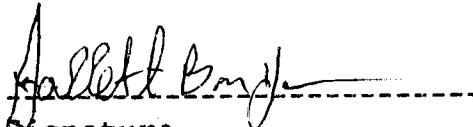
TO: Northern District of New York

100 South Clinton Street, P.O. Box 1798
Syracuse, New York 13261-7198

Sworn to before me this

19 day of April 2005.


JOSEPH A. JORDAN
Notary Public, State of New York
Reg. # 01JO6102656
Appointed in Oneida County
My Commission Expires December 8, 2007


Signature

V E R I F I C A T I O N

STATE OF NEW YORK)
) SS.:
COUNTY OF ONEIDA)

I, Jarrett Banyan, being duly sworn, deposes and says:

I am the petitioner in this within proceeding; I have read the foregoing petition and know the contents thereof; that the same is true to my own knowledge, except as to matters therein stated to be upon information and belief, and as to those matters I believe them to be true.

Jarrett Banyan

SWORN TO BEFORE ME THIS

19 DAY OF April, 2005'

Joseph A. Jordan
NOTARY PUBLIC, N.Y.S.

JOSEPH A. JORDAN
Notary Public, State of New York
Reg. # 01JO6102656
Appointed in Oneida County
My Commission Expires December 8, 2007.